

REMARKS

Claims 1 and 3 - 7 are now in the case. Of these, Claim 1 is the sole independent claim.

Claim 1 has been substantially amended to recite applicant's invention with particularity. The claim as now amended clearly patentably defines over the art of record, whether taken alone or in combination.

Claim 1 recites a deterrent strip positionable on a support for repelling birds and other pests.

The claim recites a plurality of wire support members forming an elongated, flexible bendable base having side edges. The claim now states that the wire support portions of each wire support member are elevated relative to the inner portions thereof. It is also stated that the adjacent wire support members of the deterrent strip define spaces therebetween extending inwardly from at least one of the side edges of the base.

Claim 1 now also recites first and second electrically conductive, undulating, crimped, extensible wires. The first electrically conductive, undulating, crimped, extensible wire is recited as being secured to one of the spaced wire support portions and the second electrically conductive, undulating, crimped, extensible wire is secured to the other of the spaced wire support portions. The first and second electrically

conductive, undulating, crimped, extensible wires are recited as being parallel and spaced from one another a distance enabling a bird or other pest to simultaneously contact the first and second electrically conductive, undulating, crimped, extensible wires when engaging the strip to short the electrically conductive, undulating, crimped, extensible wires and provide a mild shock to the pest.

Claim 1 now recites restraint members spaced inwardly from the side edges of the elongated, flexible, bendable base attached to and extending between adjacent wire support members across the spaces defined thereby resisting lengthwise stretching of the strip and limiting the stretching of the electrically conductive, undulating, crimped, extensible wires while allowing the elongated, flexible, bendable base to bend both out of plane and within plane to conform to the shape of the support.

As stated in the specification, such structural features cooperate to limit lengthwise stretching of the strip, including the electrically conductive, undulating, crimped, extensible wires, a problem with prior art systems resulting in the device either bending upwardly into an arch or in certain circumstances stretching so far that it sags over the edge of a building or other support surface on which it is mounted.

The sole patent applied in the rejection of the claims as originally submitted is Cleveland (U.S. 5,163,658).

Cleveland relates to an electric fence wire construction wherein parallel, straight wires of an electric fence wire construction are maintained in parallel condition by an elongated plastic strip with the edges of the strip folded over the parallel, straight wires. The wires, being straight, are not subject to stretch to any meaningful extent. Thus, the Cleveland device cannot bend in plane. Furthermore, the elongated plastic strip would not limit stretching even if the wires were undulating, crimped and extensible. The strip of Cleveland is of a continuous, planar, solid nature between the wires, preventing bending in plane (sideways bending) of the Cleveland construction.

Additionally, the first and second electrically conductive, undulating, crimped, extensible wires set forth in Claim 1 of the present invention are maintained elevated by the two spaced wire support portions which are elevated relative to the inner portions of the wire support members. There is no teaching of this feature whatsoever in Cleveland. In fact, the folded over edges of the non-electrically conductive center strip of Cleveland would be engaged by a landing bird even if the construction of Cleveland were disposed in a horizontal, rather than vertical plane, as taught by Cleveland. That is, the bird's feet would likely bridge adjacent sections of the turned-over strip edges and not contact the wires at all.

Claim 3 depends from Claim 1 and states that the wire support members are integrally connected and that the spaces defined by the wire support members comprise notches. There is no teaching of this feature in Cleveland when taken as part of the novel overall combination set forth in parent Claim 1.


Claims 4 - 7 recite that the restraint members are flexible, readily bendable, substantially non-linearly extensible connectors, Claims 5 - 7 setting forth these connectors in more detail. Cleveland fails to provide any suggestion whatsoever of these features there are in fact no such connectors in Cleveland, the strip of Cleveland being of solid construction between the structures. The plastic strip of Cleveland provides nothing more than a generally planar, solid base providing support for the straight wires employed in the Cleveland construction. There is nothing equivalent in Cleveland to applicant's claimed restraint members.

The references cited but not applied have been carefully studied and are not considered relevant to applicant's invention as now claimed.

Allowance of all claims in the case is believed to be
in order and such action is earnestly solicited.

Respectfully submitted,

By: _____


Thomas R. Lampe, Reg. No. 22,454
BIELEN, LAMPE & THOEMING
1990 N. California Blvd., Suite 720
Walnut Creek, CA 94596
(925) 937-1515